

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JENISE COLVIN,

Defendant.

No. 22-CR-1037 CJW-MAR

**ORDER REGARDING MAGISTRATE
JUDGE'S REPORT AND
RECOMMENDATION
CONCERNING DEFENDANT'S
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On April 19, 2023, a seven-count Second Superseding Indictment¹ was filed against defendant and one other person. Defendant was charged in counts five and six. On May 5, 2023, defendant appeared before United States Magistrate Judge Mark A. Roberts and entered a plea of guilty to counts five and six of the Second Superseding Indictment. On May 5, 2023, Judge Roberts filed a Report and Recommendation (“R&R”) in which he recommended defendant’s guilty plea be accepted. The parties did not file objections to Judge Roberts’ R&R. The Court, therefore, undertakes the necessary review of Judge Roberts’ recommendation to accept defendant’s plea in this case.

II. ANALYSIS

Under the statute, this Court’s standard of review for a magistrate judge’s R&R is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which

¹ On May 4, 2023, an Amended Second Superseding Indictment was filed in this case to correct the Code Section listed in count 5. (Doc. 99). This amendment does not affect defendant’s change of plea to counts 5 and 6, and the Report and Recommendation properly lists the Code Section for count 5 as 18 U.S.C. Section 1512(k).

objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

28 U.S.C. § 636(b)(1)(C).

When parties do not object to a magistrate judge's report and recommendation, the Court reviews the report and recommendation for clear error. 28 U.S.C. § 636(b)(1)(A). Similarly, Federal Rule of Criminal Procedure 59(b) provides for review of a magistrate judge's R&R on dispositive motions, where objections are made, as follows:

The district judge must consider de novo any objection to the magistrate judge's recommendation. The district judge may accept, reject, or modify the recommendation, receive further evidence, or resubmit the matter to the magistrate judge with instructions.

FED. R. CRIM. P. 59(b)(3).²

In this case, the parties filed no objections, and it appears to the Court upon review that Judge Roberts' findings and conclusions are not clearly erroneous. Therefore, the Court **ACCEPTS** Judge Roberts' R&R of May 5, 2023, and **ACCEPTS** defendant's plea of guilty in this case to counts five and six of the Second Superseding Indictment.

IT IS SO ORDERED this 22nd day of May, 2023.



C.J. Williams
United States District Judge
Northern District of Iowa

² *United States v. Cortez-Hernandez*, 673 F. App'x 587, 590-91 (8th Cir. 2016) (per curiam), suggests that a defendant may have the right to de novo review of a magistrate judge's recommendation to accept a plea of guilty even if no objection is filed.